

REMARKS

Applicant's attorney appreciates the Examiner extending the applicant a opportunity to supplement the previously submitted amendment.

Claim 9, that was withdrawn previously, has been cancelled. Thus claims 1-8 and 10-16 remain pending and stand rejected in the subject patent application.

Objection to the Drawings

The drawings were objected to on the contention that "it is not readily apparent how Figures 4-6 are incorporated into/with Figures 1,2, and or 7-9."

That objection is unfounded. The description of Figure 2 in paragraph 0021 of the specification identifies a first portion 28 of the material for the initiator 26, which is shown in the upper portion of the left half of that figure. Paragraph 0024 describes how that first portion 28 is activated by an electric control circuit 40 in that illustrated version of the apparatus. The first sentence of paragraph 0028 states that Figures 4-6 show various alternative means for activating the initiator 26. Each of Figures 4-6 clearly shows the first portion 28 of the initiator material, which portion is identified with the same reference numeral as in the illustration of the entire gas generator 12 in Figure 2. Paragraphs 0028-0030 then describe how these alternative means activate the initiator 26 and how that activation ignites the second portion 30 of the initiator material shown in Figure 2.

Thus illustration of the common first portion 28 of the initiator 26 in Figures 2 and 4-6, along with the description in the specification of how the alternative means for activating the initiator 26 interact with the other components in Figure 2, make it clearly

apparent how Figures 4-6 are incorporated into and function with the entire gas generator 12 in Figure 2.

Therefore, applicant requests withdrawal of the objection to the drawings.

Rejection Under 35 U.S.C. §112

Claims 1-8 and 10-16 were rejected under the second paragraph of 35 U.S.C. §112.

Claim 1 was considered indefinite as to whether the subject matter being claimed constitutes the apparatus alone or in combination with the door and the vehicle. In response, claim 1 has been amended to (1) move the recitation that the door has first and second positions into the preamble, (2) state that the fluid cylinder and piston are adapted to be operatively connected to the door and the vehicle, and (3) divide the descriptions of the claimed elements into different paragraphs. Revised claim 1 makes it clear that the apparatus alone is the subject matter of the invention and that the door and the vehicle are workpieces operated by the apparatus. The fact that throughout the claims reference is made as to how the components of the apparatus function with respect to those workpieces does not imply that a combination of the apparatus with a door is being claimed. There is not a positive recitation of a door, but rather the claims define functionality of the apparatus elements in the context of that workpiece.

Reference throughout the dependent claims to “a first position” and “a second position” was questioned as to whether these were the same positions as in claim 1. Those references in the dependent claims have been deleted.

In claim 3 the phrase “initiated rapidly” was not understood by the examiner. This phrase has been changed to specify “a solid chemical which when activated generates a predetermined volume of gas.” Furthermore, the meaning of “the shape of said gas generating chemical” was

questioned. In that regard, claim 3 states that the gas generating chemical comprises a solid chemical that is ignited to produce the gas for driving the piston. The rate at which the chemical burns and thus the rate at which the gas is generated varies depending upon the shape of that solid (see application paragraphs 0030-0031). Furthermore, one of ordinary skill in the combustion of solids readily appreciates that the shape of a solid affects the rate of combustion. Therefore this phrase is definite in the context of both the specification and the state of the art.

Claim 5 was cited for the lack of an antecedent basis for “said source”. This claim has been amended to state that the apparatus as in claim 4 “further comprising a source of energy”, thereby overcoming the antecedent basis problem.

With respect to claim 11, “the arming member” and “the armed position” were stated as lacking an antecedent basis. This deficiency has been remedied by using the indefinite article “an” in place of “the” before each of those nouns.

The rejection of claim 12 has been rendered moot, by amending that claim to recite “said arming member (36)”, thereby clearly referring to that same element introduced in claim 8.

Claim 15 clearly states that the apparatus being claimed is for moving a door and that the door is the workpiece on which the apparatus operates. This is further clarified by amending the claim to state that the rotary actuator means produces rotary motion and is adapted to be operatively connected to the door. This change avoid any possibility that the door is positively recited in claims 15 and 16.

It is submitted that claims 1-8 and 10-16 now comply with the requirements of 35 U.S.C. §112.

Conclusion

For these reasons, reconsideration and allowance of the present application are requested.

Respectfully submitted,
Günter Julius Pelz

Dated: March 25, 2009

By: /George E. Haas/
George E. Haas
Registration No. 27,642

Quarles & Brady LLP
411 E. Wisconsin Avenue Suite 2040
Milwaukee, WI 53202-4497

Telephone (414) 277-5751
Facsimile (414) 271-3552
email: geh@quarles.com
QB\7654378.1